

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SHOW INDUSTRIES, INC.

and

Case 21--CA--28159

GENERAL WAREHOUSEMEN, LOCAL 598,  
INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, AFL--CIO<sup>1</sup>

*November 8, 1991*

DECISION AND ORDER

*By Chairman Stephens and members Devaney and Oviatt*  
On July 30, 1991, the General Counsel of the National Labor Relations

Board issued a complaint alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain following the Union's certification in Case 21--RC--18569. (Official notice is taken of the "'record'" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); Frontier Hotel, 265 NLRB 343 (1982).) The Respondent filed its answer admitting in part and denying in part the allegations in the complaint.

On September 11, 1991, the General Counsel filed a Motion for Summary Judgment. On September 13, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

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<sup>1</sup> The name of the Charging Party, has been changed to reflect the new official name of the International Union.

## Ruling on Motion for Summary Judgment

In its answer the Respondent admits its refusal to bargain and to furnish information that is relevant and necessary to the Union's role as bargaining representative, but attacks the validity of the certification on the basis of its objections to the election in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding.<sup>2</sup> See Pittsburgh Plate Glass Co. v. NLRB, 313 U.S. 146, 162 (1941). There are no factual issues regarding the Union's request for information because the Respondent admitted that it refused to furnish the information. Respondent also denies as relevant the information requested, i.e., the name, address, telephone number, date of hire, rate of pay, current job classification with minimum and maximum pay rate of each unit employee; a statement of the method of wage progression by job classification and pay rate for the unit employees; a list and description of all benefits provided to the unit employees; and copies or a summary description of the benefit plans applicable to unit employees. It is well settled that such information regarding unit employees is presumptively relevant to and necessary for purposes of collective bargaining. Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

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<sup>2</sup> Member Devaney did not participate in the underlying representation proceeding.

## Findings of Fact

## I. Jurisdiction

The Respondent, a California corporation, is engaged in the merchandising of music and video at its facility located at 2551 South Alameda Street, Los Angeles, California, where it annually sells and ships goods and products valued in excess of \$50,000 directly to customers located outside the State of California. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. Alleged Unfair Labor Practices

A. The Certification

Following the election held November 30, 1989, the Union was certified on May 21, 1991, as the collective-bargaining representative of the employees in the following appropriate unit:

All packers, shipping and receiving clerks, order pickers, stockers, fixture handlers, warehouse employees, poster shippers, truck drivers, janitors, and inventory employees employed by the Employer at its facility located at 2551 South Alameda Street, Los Angeles, California; excluding all other professional employees, guards and supervisors as defined in the Act.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. Refusal to Bargain

Since May 30, 1991, and at all times thereafter, by letters dated May 30, 1991, and June 19, 1991, the Union has requested the Respondent to bargain and to furnish information, and, since June 6, 1991, by letters dated June 6, 1991, and July 8, 1991, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

## Conclusions of Law

By refusing on and after June 6, 1991, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## Remedy

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. Mar-Jac Poultry Co, 136 NLRB 785 (1962); Lamar Hotel, 140 NLRB 226, 229 (1962), enfd. 328 F.2d 600 (5th Cir. 1964), cert. denied 379 U.S. 817 (1964); Burnett Construction Co., 149 NLRB 1419, 1421 (1964), enfd. 350 F.2d 57 (10th Cir. 1965).

## ORDER

The National Labor Relations Board orders that the Respondent, Show Industries, Inc., its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with General Warehousemen, Local 598, International Brotherhood of Teamsters, AFL--CIO, as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to

furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All packers, shipping and receiving clerks, order pickers, stockers, fixture handlers, warehouse employees, poster shippers, truck drivers, janitors, and inventory employees employed by the Employer at its facility located at 2551 South Alameda Street, Los Angeles, California; excluding all other professional employees, guards and supervisors as defined in the Act.

(b) On request, furnish the Union information that is relevant and necessary to its role as the exclusive representative of the unit employees.

(c) Post at its facility in Los Angeles, California, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 21, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps

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<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C.      November 8, 1991

James M. Stephens, Chairman

Dennis M. Devaney, Member

Clifford R. Oviatt, Jr.,	Member
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(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with General Warehousemen, Local 598, International Brotherhood of Teamsters, AFL--CIO as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All packers, shipping and receiving clerks, order pickers, stockers, fixture handlers, warehouse employees, poster shippers, truck drivers, janitors, and inventory employees employed by the Employer at its facility located at 2551 South Alameda Street, Los Angeles, California; excluding all other professional employees, guards and supervisors as defined in the Act.

SHOW INDUSTRIES, INC.

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(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 811 Wilshire Boulevard, Los Angeles, California 90017-2803, Telephone 213--894--5279.